

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC-SDNY
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DATE FILED: 7/21/2020

FREDDY CHUCHUCA, *on behalf of himself and all other persons similarly situated*, LUIS DARIO GUARTAN, *on behalf of himself and all other persons similarly situated*, ADRIAN GUZMAN, *on behalf of himself and all other persons similarly situated*, HERLINDO SORIANO DE LA ROSA, *on behalf of himself and all other persons similarly situated*, BOLIVAR BERMEJO, PORFIRIO ROSAS, JORGE CURILLO, JUAN PABLO LITUMA, ALFREDO VARELA, MARIO LOPEZ VAZQUEZ, and IVAN BONILLA,

Plaintiffs,

v.

FITZCON CONSTRUCTION G.C. INC.,
FITZCON CONSTRUCTION/REN CORP,
ESCO HIRF CO. INC., RONAN
FITZPATRICK, CORNELIUS
O'SULLIVAN, and JOHN DOES #1-10

Defendants.

RONNIE ABRAMS, United States District Judge:

The Court has been notified that mediation was unsuccessful. It is hereby:

ORDERED that, to conserve resources, to promote judicial efficiency, and in an effort to achieve a faster disposition of this matter, that the parties must discuss whether they are willing to consent, under 28 U.S.C. § 636(c), to conducting all further proceedings before Magistrate Judge Cott. If both parties consent to proceed Magistrate before Judge Cott, they must, **within two weeks of the date of this Order**, submit to the Court a fully executed Notice, Consent, and Reference of a Civil Action to a Magistrate Judge form, a copy of which is attached to this Order (and also

available at <http://nysd.uscourts.gov/file/forms/consent-to-proceed-before-us-magistrate-judge>). If the Court approves that form, all further proceedings will then be conducted before Magistrate Judge Cott rather than before this Court. Any appeal would be taken directly to the United States Court of Appeals for the Second Circuit, as it would be from this Court if the consent form were not signed and so ordered. An information sheet on proceedings before magistrate judges is also attached to this Order.

If any party does not consent to conducting all further proceedings before the Magistrate Judge, the parties must file a joint letter, **within two weeks of the date of this Order**, advising the Court that the parties do not consent, **but without disclosing the identity of the party or parties who do not consent**. No adverse consequences will result from the withholding of that consent.

The parties are reminded that, in most cases, settlements of claims under the FLSA must be approved by the Court. *See Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199 (2d Cir. 2015).

SO ORDERED.

Dated: July 21, 2020
New York, New York



Ronnie Abrams
United States District Judge



**United States District Court
Southern District of New York**

**UNITED STATES MAGISTRATE JUDGES:
REFERRALS AND CONSENTS**

All cases in the Southern District of New York are assigned to two judges: a district judge and a magistrate judge. District judges are appointed for life terms by the President. Magistrate judges are selected by a majority vote of the district judges in the particular district and serve terms of eight years.

Referrals to the Magistrate Judge. The district judge assigned to your case may refer the case to a magistrate judge for specific purposes. Commonly, the referral will be for the magistrate judge to conduct the proceedings that occur before trial, such as resolving discovery disputes or presiding over settlement conferences. A referral may also be made for the magistrate judge to issue to the district judge a report and recommendation on how to resolve a motion, such as a motion to dismiss or a motion for summary judgment. The consent of the parties is not needed for the district judge to refer the case to the magistrate judge for these purposes. If the district judge has made such a referral, you can ask the district judge to review any magistrate judge's decision by filing an objection with the district judge within fourteen days of that decision. The district judge will rule on any timely objections that you file. If you do not file an objection, you will give up your right to challenge the magistrate judge's decision at a later time, including on appeal. *See Rule 72 of the Federal Rules of Civil Procedure.*

Consent to Proceed Before the Magistrate Judge. If you would like your case to move more quickly, it is helpful to consent to proceed before the magistrate judge for all purposes, including any trial. If all parties consent, the magistrate judge will perform the identical function that the district judge would have performed. Any trial in your case would be either a jury or a nonjury trial, depending upon whether there is a right to a jury trial and a proper request for such a trial. The only difference is that the magistrate judge – and not the district judge – would preside over that trial. Cases that proceed for all purposes before a magistrate judge generally move more quickly than cases before a district judge. If all parties consent to proceed before the magistrate judge, the district judge plays no further role in the case. Any appeal is taken directly to the Court of Appeals. It is your choice whether or not to consent to proceed before the magistrate judge.

A copy of the appropriate consent form is attached. Additional forms are also available from the Pro Se Intake Unit and on the Court's website.

UNITED STATES DISTRICT COURT

for the

____ District of _____

Plaintiff)
 v.)
 _____) Civil Action No.
 _____)
Defendant)

NOTICE, CONSENT, AND REFERENCE OF A CIVIL ACTION TO A MAGISTRATE JUDGE

Notice of a magistrate judge's availability. A United States magistrate judge of this court is available to conduct all proceedings in this civil action (including a jury or nonjury trial) and to order the entry of a final judgment. The judgment may then be appealed directly to the United States court of appeals like any other judgment of this court. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have your case referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

Consent to a magistrate judge's authority. The following parties consent to have a United States magistrate judge conduct all proceedings in this case including trial, the entry of final judgment, and all post-trial proceedings.

*Printed names of parties and attorneys**Signatures of parties or attorneys**Dates*

Reference Order

IT IS ORDERED: This case is referred to a United States magistrate judge to conduct all proceedings and order the entry of a final judgment in accordance with 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73.

Date: _____

*District Judge's signature**Printed name and title*

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.